



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 05/22/2013 (Per: CMH)

☞ Appendix I ... Part III

Appendix A ☞ The drafting file for LRB 11-0021 (used to create 13-0031)

Appendix B ☞ The drafting file for LRB 09-4673 (used to create 11-0021)

Appendix C ☞ The drafting file for LRB 09-0012 (used to create 09-4673)

Appendix D ☞ The drafting file for LRB 09-0068 (used to create 09-4673)

Appendix E ☞ The drafting file for LRB 09-0070 (used to create 09-4673)

Appendix F ☞ The drafting file for LRB 09-0071 (used to create 09-4673)

Appendix G ☞ The drafting file for LRB 09-0228 (used to create 09-4673)

Appendix H ☞ The drafting file for LRB 09-3257 (used to create 09-4673)

Appendix I ☞ The drafting file for LRB 09-4635 (used to create 09-4673)

Appendix J ☞ The drafting file for LRB 09-4648 (used to create 09-4673)

has been transferred to the drafting file for

2013 LRB-0031



State of Wisconsin
LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX -
PLEASE DO NOT REMOVE FROM DRAFTING FILE

Date Transfer Requested: 09/16/2010 (Per: CMH)

☞ Compile Draft – Appendix ☞
... Part III

- | | |
|--|--|
| B ☞ The 2009 drafting file for
LRB-0012 | F ☞ The 2009 drafting file for
LRB-0228 |
| C ☞ The 2009 drafting file for
LRB-0068 | G ☞ The 2009 drafting file for
LRB-3257 |
| D ☞ The 2009 drafting file for
LRB-0070 | H ☞ The 2009 drafting file for
LRB-4635 |
| E ☞ The 2009 drafting file for
LRB-0071 | I ☞ The 2009 drafting file for
LRB-4648 |

2009 LRB-4635 (used to create 2009 LRB-4673)

has been transferred to the drafting file for

2011 LRB-0021



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4635/P1

RLR:jld:rs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT *to repeal*** 971.14 (title), 971.14 (1) (title), 971.14 (1) (c), 971.14 (2) (title),
2 971.14 (2) (am), 971.14 (3) (dm) 1. and 2., 971.14 (4) (title), 971.14 (4) (b), 971.14
3 (4) (c), 971.14 (4) (d), 971.14 (5) (title), 971.14 (6) (title), 971.14 (6) (a), 971.16
4 (1), 971.16 (3) (a), 971.16 (3) (b), 971.17 (1j) (title), 971.17 (1m) (title), 971.17 (2)
5 (title), 971.17 (3) (title), 971.17 (4m), 971.17 (6m) (title), 971.17 (6m) (a) 1.,
6 971.17 (6m) (b), 971.17 (6m) (c), 971.17 (7) (d), 971.17 (8), 975.001, 975.01,
7 975.06, 975.07, 975.08, 975.09, 975.10, 975.11, 975.12, 975.15, 975.16, 975.17
8 and 975.18; ***to renumber*** 971.14 (1) (a), 971.14 (2) (f), 971.14 (3) (a) and (b),
9 971.16 (title), 971.165 (title), 971.17 (title), 971.17 (1j) (a), 971.17 (4) (title),
10 971.17 (5) (title), 971.17 (6m) (a) 2., 971.17 (6m) (a) 3., 971.17 (7) (title) and
11 971.17 (7m); ***to renumber and amend*** 971.13, 971.14 (1) (b), 971.14 (2) (a),
12 971.14 (2) (b), 971.14 (2) (c), 971.14 (2) (d), 971.14 (2) (e), 971.14 (2) (g), 971.14
13 (3) (intro.), 971.14 (3) (c), 971.14 (3) (d), 971.14 (3) (dm) (intro.), 971.14 (3) (e),
14 971.14 (4) (a), 971.14 (5) (a), 971.14 (5) (am), 971.14 (5) (b), 971.14 (5) (c), 971.14
15 (5) (d), 971.14 (6) (b), 971.14 (6) (c), 971.14 (6) (d), 971.15, 971.16 (2), 971.16 (3)

(intro.), 971.16 (4), 971.16 (5), 971.16 (6), 971.165 (1), 971.165 (2), 971.165 (3) (a), 971.165 (3) (b), 971.17 (1), 971.17 (1g), 971.17 (1h), 971.17 (1j) (b), 971.17 (1m) (a), 971.17 (1m) (b) 1m. a., 971.17 (1m) (b) 1m. b., 971.17 (1m) (b) 2m., 971.17 (1m) (b) 3., 971.17 (1m) (b) 4., 971.17 (1m) (b) 5., 971.17 (2) (a), 971.17 (2) (b), 971.17 (2) (c), 971.17 (2) (d), 971.17 (2) (e), 971.17 (2) (f), 971.17 (2) (g), 971.17 (3) (a), 971.17 (3) (b), 971.17 (3) (c), 971.17 (3) (d), 971.17 (3) (e), 971.17 (4) (a), 971.17 (4) (b), 971.17 (4) (c), 971.17 (4) (d), 971.17 (4) (e), 971.17 (5), 971.17 (6), 971.17 (6m) (a) (intro.), 971.17 (6m) (d), 971.17 (7) (a), 971.17 (7) (b), 971.17 (7) (c) and 971.18; **to amend** 6.10 (7m) (a) (intro.), 6.10 (7m) (a) 2., 19.32 (1b), 20.435 (2) (bj), 20.435 (2) (gk), 46.10 (2), 46.90 (6) (bt) 8., 48.981 (1) (b), 49.19 (4) (d) 3., 51.05 (2), 51.20 (1) (am), 51.20 (16) (j), 51.30 (3) (b), 51.30 (4) (b) 8m., 51.30 (4) (b) 9., 51.30 (4) (b) 11., 51.30 (4) (b) 12m., 51.30 (4) (b) 16., 51.30 (7), 51.37 (1), 51.37 (3), 51.37 (4), 51.37 (9), 51.37 (10) (am), 51.375 (1) (a), 51.39, 51.42 (3) (as) 1m., 51.42 (3) (as) 1r., 51.437 (4rm) (a), 51.61 (1) (intro.), 51.61 (1) (e), 51.61 (1) (i) 1., 51.87 (3), 55.043 (6) (bt) 8., 55.075 (intro.), 146.82 (2) (c), 165.76 (1) (b), 165.76 (2) (b) 3., 165.76 (3), 165.77 (2) (b), 165.77 (2m) (c), 165.77 (3), 165.81 (3) (b), 301.03 (3c), 301.035 (2), 301.035 (4), 301.45 (1g) (c), 301.45 (1g) (d), 301.45 (1g) (dd), 301.45 (1g) (dp), 301.45 (1g) (e), 301.45 (1m) (b), 301.45 (1m) (be), 301.45 (1m) (bm), 301.45 (1m) (bv), 301.45 (1m) (d) 1., 301.45 (1m) (e) (intro.), 301.45 (3) (a) 3., 301.45 (3) (a) 3g., 301.45 (3) (b) 3., 301.45 (5) (a) 3., 301.45 (5) (a) 3m., 301.45 (5) (b) 3., 301.45 (6) (a) 2. a., 301.45 (6) (ag) 2. a., 301.46 (3) (d), 301.47 (3) (b) 1., 301.48 (2) (a) 4., 301.48 (2) (a) 5., 301.48 (2) (b) 3., 322.0767 (1) (a), 322.0767 (1) (b), 322.0767 (1) (c), 322.0767 (1) (d), 322.0767 (2) (b), 322.0767 (2) (c), 322.0767 (2) (d), 785.03 (1) (b), 801.02 (7) (a) 2. e., 808.04 (3), 808.04 (4), 808.075 (4) (b) 4., 808.075 (4) (g) 7., subchapter III (title) of

chapter 809 [precedes 809.30], 809.30 (title), 809.30 (1) (a), 809.30 (1) (b) 4., 809.30 (1) (e), 809.30 (2) (a), 895.54, 907.06 (5), 911.01 (4) (c), 938.30 (5) (c) (intro.), 938.30 (5) (d) (intro.), 938.30 (5) (e) 1. (intro.), 939.615 (2) (a), 939.615 (3) (d), 946.42 (3) (g), 948.50 (4) (c), 949.165 (9), 950.04 (1v) (b), 950.04 (1v) (um), 950.04 (1v) (x), 967.02 (2), 967.08 (2) (b), 968.205 (1) (a), 968.205 (1) (b), 968.205 (2), 968.255 (7) (c), 968.38 (3) (d), 968.38 (4) (intro.), 968.38 (5) (intro.), 969.01 (1), 972.13 (2), 972.15 (5) (intro.), 974.07 (4) (b), 974.07 (7) (b) 1., 977.05 (4) (j), 978.05 (6) (a), 978.08 (2), 980.015 (2) (c) and 980.015 (2) (d); **to repeal and recreate** chapter 975 (title); and **to create** subchapter I (title) of chapter 975 [precedes 975.20], 975.20, subchapter II (title) of chapter 975 [precedes 975.30], 975.31 (title), 975.31 (2), 975.32 (title), 975.32 (2), 975.32 (4), 975.32 (7), 975.32 (10), 975.33 (title), 975.33 (1) (f), 975.34, 975.36 (title), 975.36 (2), 975.36 (4), 975.37, 975.38 (title), 975.39, subchapter III (title) of chapter 975 [precedes 975.50], 975.51 (4) (b), 975.51 (5) (b), 975.52 (1), 975.52 (4) (title), 975.53 (title), 975.54 (title), 975.56 (title), 975.57 (2) (e), 975.57 (3), 975.57 (4) (title), 975.57 (4) (b) and (c), 975.57 (5) (title), 975.59 (5) (title), 975.59 (5) (b) and (c), 975.61 (1) (d), 975.62 (title), 975.62 (1) (d), 975.62 (2), (3) and (4) and 975.63 (3) of the statutes; **relating to:** criminal procedure.

Analysis by the Legislative Reference Bureau

This is a preliminary draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 6.10 (7m) (a) (intro.) of the statutes is amended to read:

1 6.10 (7m) (a) (intro.) The residence of a person who is detained, or committed
2 and institutionalized, under s. 51.20, ~~971.14, or 971.17~~ or ch. 975 or 980 shall be
3 determined by applying the standards under sub. (1) to whichever of the following
4 dates is applicable to the circumstances of the person:

5 **SECTION 2.** 6.10 (7m) (a) 2. of the statutes is amended to read:

6 6.10 (7m) (a) 2. For a person committed under s. ~~971.14 or 971.17~~ ch. 975, the
7 date of the offense or alleged offense that resulted in the person's commitment.

8 **SECTION 3.** 19.32 (1b) of the statutes is amended to read:

9 19.32 (1b) "Committed person" means a person who is committed under ch.
10 975, 2007 stats., or ch. 51, 971, 975, or 980 and who is placed in an inpatient
11 treatment facility, during the period that the person's placement in the inpatient
12 treatment facility continues.

13 **SECTION 4.** 20.435 (2) (bj) of the statutes, as affected by 2009 Wisconsin Act 28,
14 is amended to read:

15 20.435 (2) (bj) *Competency examinations and treatment, and conditional*
16 *release, supervised release, and community supervision services.* Biennially, the
17 amounts in the schedule for outpatient competency examinations and treatment
18 services; and for payment by the department of costs for treatment and services for
19 persons released under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or s.
20 ~~971.17 (3) (d) or (4) (e)~~ 975.57, 975.59, or 980.08 (4) (g) or for persons who are inmates
21 of the department of corrections who are released on community supervision, for
22 which the department has contracted with county departments under s. 51.42 (3)
23 (aw) 1. d., with other public agencies, or with private agencies to provide the
24 treatment and services.

25 **SECTION 5.** 20.435 (2) (gk) of the statutes is amended to read:

1 20.435 (2) (gk) *Institutional operations and charges.* The amounts in the
2 schedule for care, other than under s. 51.06 (1r), provided by the centers for the
3 developmentally disabled, to reimburse the cost of providing the services and to
4 remit any credit balances to county departments that occur on and after
5 July 1, 1978, in accordance with s. 51.437 (4rm) (c); for care, other than under s.
6 46.043, provided by the mental health institutes, to reimburse the cost of providing
7 the services and to remit any credit balances to county departments that occur on and
8 after January 1, 1979, in accordance with s. 51.42 (3) (as) 2.; for maintenance of
9 state-owned housing at centers for the developmentally disabled and mental health
10 institutes; for repair or replacement of property damaged at the mental health
11 institutes or at centers for the developmentally disabled; and for reimbursing the
12 total cost of using, producing, and providing services, products, and care. All moneys
13 received as payments from medical assistance on and after August 1, 1978; as
14 payments from all other sources including other payments under s. 46.10 and
15 payments under s. 51.437 (4rm) (c) received on and after July 1, 1978; as medical
16 assistance payments, other payments under s. 46.10, and payments under s. 51.42
17 (3) (as) 2. received on and after January 1, 1979; as payments for the rental of
18 state-owned housing and other institutional facilities at centers for the
19 developmentally disabled and mental health institutes; for the sale of electricity,
20 steam, or chilled water; as payments in restitution of property damaged at the
21 mental health institutes or at centers for the developmentally disabled; for the sale
22 of surplus property, including vehicles, at the mental health institutes or at centers
23 for the developmentally disabled; and for other services, products, and care shall be
24 credited to this appropriation, except that any payment under s. 46.10 received for
25 the care or treatment of patients admitted under s. 51.10, 51.15, or 51.20 for which

1 the state is liable under s. 51.05 (3), of forensic patients committed under ch. ~~971~~ 975,
2 2007 stats., or ch. 975, admitted under ch. 975, 2007 stats., or transferred under s.
3 51.35 (3), or of patients transferred from a state prison under s. 51.37 (5), to the
4 Mendota Mental Health Institute or the Winnebago Mental Health Institute shall
5 be treated as general purpose revenue — earned, as defined under s. 20.001 (4); and
6 except that moneys received under s. 51.06 (6) may be expended only as provided in
7 s. 13.101 (17).

8 **SECTION 6.** 46.10 (2) of the statutes is amended to read:

9 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
10 including but not limited to a person admitted, committed, protected, or placed under
11 s. 975.01, 1977 stats., s. 975.02, 1977 stats., s. 975.17, 1977 stats., s. 55.05 (5), 2003
12 stats., and s. 55.06, 2003 stats., and ~~ss. or s. 975.06, 2007 stats.~~, or s. 51.10, 51.13,
13 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.055, 55.12,
14 55.13, 55.135, ~~971.14 (2) and (5), 971.17 (1), 975.06 and or 980.06, or ch. 975,~~
15 receiving care, maintenance, services and supplies provided by any institution in
16 this state including University of Wisconsin Hospitals and Clinics, in which the state
17 is chargeable with all or part of the person's care, maintenance, services and
18 supplies, any person receiving care and services from a county department
19 established under s. 51.42 or 51.437 or from a facility established under s. 49.73, and
20 any person receiving treatment and services from a public or private agency under
21 s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or s. ~~971.17 (3) (d) or (4) (e)~~
22 975.57 (4), 975.59, or 980.08 (4) (g) and the person's property and estate, including
23 the homestead, and the spouse of the person, and the spouse's property and estate,
24 including the homestead, and, in the case of a minor child, the parents of the person,
25 and their property and estates, including their homestead, and, in the case of a

1 foreign child described in s. 48.839 (1) who became dependent on public funds for his
2 or her primary support before an order granting his or her adoption, the resident of
3 this state appointed guardian of the child by a foreign court who brought the child
4 into this state for the purpose of adoption, and his or her property and estate,
5 including his or her homestead, shall be liable for the cost of the care, maintenance,
6 services and supplies in accordance with the fee schedule established by the
7 department under s. 46.03 (18). If a spouse, widow or minor, or an incapacitated
8 person may be lawfully dependent upon the property for their support, the court
9 shall release all or such part of the property and estate from the charges that may
10 be necessary to provide for those persons. The department shall make every
11 reasonable effort to notify the liable persons as soon as possible after the beginning
12 of the maintenance, but the notice or the receipt thereof is not a condition of liability.

13 **SECTION 7.** 46.90 (6) (bt) 8. of the statutes is amended to read:

14 46.90 (6) (bt) 8. To the attorney or guardian ad litem for the elder adult at risk
15 who is the alleged victim named in the record, to assist in preparing for any
16 proceeding under ch. 975, 2007 stats., or ch. 48, 51, 54, 55, 813, 971, or 975 pertaining
17 to the alleged victim.

18 **SECTION 8.** 48.981 (1) (b) of the statutes is amended to read:

19 48.981 (1) (b) "Community placement" means probation; extended supervision;
20 parole; aftercare; conditional transfer into the community under s. 51.35 (1);
21 conditional transfer or discharge under s. 51.37 (9); placement in a Type 2 residential
22 care center for children and youth or a Type 2 juvenile correctional facility
23 authorized under s. 938.539 (5); conditional release under s. ~~971.17~~ 975.57 or 975.59;
24 supervised release under s. 980.06 or 980.08; participation in the community
25 residential confinement program under s. 301.046, the intensive sanctions program

1 under s. 301.048, the corrective sanctions program under s. 938.533, the intensive
2 supervision program under s. 938.534, or the serious juvenile offender program
3 under s. 938.538; or any other placement of an adult or juvenile offender in the
4 community under the custody or supervision of the department of corrections, the
5 department of health services, a county department under s. 46.215, 46.22, 46.23,
6 51.42, or 51.437 or any other person under contract with the department of
7 corrections, the department of health services or a county department under s.
8 46.215, 46.22, 46.23, 51.42, or 51.437 to exercise custody or supervision over the
9 offender.

10 **SECTION 9.** 49.19 (4) (d) 3. of the statutes is amended to read:

11 49.19 (4) (d) 3. Is the wife of a husband who has been committed to the
12 department pursuant to ch. 975, 2007 stats., irrespective of the probable period of
13 such commitment; or

14 **SECTION 10.** 51.05 (2) of the statutes is amended to read:

15 51.05 (2) ADMISSIONS AUTHORIZED BY COUNTIES. The department may not accept
16 for admission to a mental health institute any resident person, except in an
17 emergency, unless the county department under s. 51.42 in the county where the
18 person has residence authorizes the care under s. 51.42 (3) (as). Patients who are
19 committed to the department under s. 975.01, 1977 stats., or s. 975.02, 1977 stats.,
20 or s. 975.06, 2007 stats., or s. 971.14, 971.17, 975.06, or 980.06, or ch. 975, admitted
21 by the department under s. 975.17, 1977 stats., or are transferred from a juvenile
22 correctional facility or a secured residential care center for children and youth to a
23 state treatment facility under s. 51.35 (3) or from a jail or prison to a state treatment
24 facility under s. 51.37 (5) are not subject to this section.

25 **SECTION 11.** 51.20 (1) (am) of the statutes is amended to read:

1 51.20 (1) (am) If the individual has been the subject of inpatient treatment for
2 mental illness, developmental disability, or drug dependency immediately prior to
3 commencement of the proceedings as a result of a voluntary admission, a
4 commitment or protective placement ordered by a court under this section ~~or~~, s.
5 55.06, 2003 stats., ~~s. 971.17~~ ch. 975, 2007 stats., or ch. 975, or a protective placement
6 or protective services ordered under s. 55.12, or if the individual has been the subject
7 of outpatient treatment for mental illness, developmental disability, or drug
8 dependency immediately prior to commencement of the proceedings as a result of a
9 commitment ordered by a court under this section, ~~s. 971.17~~ ch. 975, 2007 stats., or
10 ch. 975, the requirements of a recent overt act, attempt or threat to act under par.
11 (a) 2. a. or b., pattern of recent acts or omissions under par. (a) 2. c. or e., or recent
12 behavior under par. (a) 2. d. may be satisfied by a showing that there is a substantial
13 likelihood, based on the subject individual's treatment record, that the individual
14 would be a proper subject for commitment if treatment were withdrawn. If the
15 individual has been admitted voluntarily to an inpatient treatment facility for not
16 more than 30 days prior to the commencement of the proceedings and remains under
17 voluntary admission at the time of commencement, the requirements of a specific
18 recent overt act, attempt or threat to act, or pattern of recent acts or omissions may
19 be satisfied by a showing of an act, attempt or threat to act, or pattern of acts or
20 omissions which took place immediately previous to the voluntary admission. If the
21 individual is committed under s. ~~971.14 (2) or (5)~~ 975.32 or 975.34 at the time
22 proceedings are commenced, or has been discharged from the commitment
23 immediately prior to the commencement of proceedings, acts, attempts, threats,
24 omissions, or behavior of the subject individual during or subsequent to the time of
25 the offense shall be deemed recent for purposes of par. (a) 2.

1 **SECTION 12.** 51.20 (16) (j) of the statutes is amended to read:

2 51.20 **(16)** (j) This subsection applies to petitions for reexamination that are
3 filed under ch. 971, ~~but not s. 971.17, and ch. 975, 2007 stats., and subch. II of ch. 975,~~
4 except that the petitions shall be filed with the committing court.

5 **SECTION 13.** 51.30 (3) (b) of the statutes is amended to read:

6 51.30 **(3)** (b) An individual's attorney or guardian ad litem and the corporation
7 counsel shall have access to the files and records of the court proceedings under this
8 chapter without the individual's consent and without modification of the records in
9 order to prepare for involuntary commitment or recommitment proceedings,
10 reexaminations, appeals, or other actions relating to detention, admission, or
11 commitment under this chapter, ch. 975, 2007 stats., or ch. 971, 975, or 980.

12 **SECTION 14.** 51.30 (4) (b) 8m. of the statutes is amended to read:

13 51.30 **(4)** (b) 8m. To appropriate examiners and facilities in accordance with s.
14 54.36 (3), ~~971.17 (2) (e), (4) (e), and (7) (e)~~ 975.56 (2), 975.59 (3), or 975.63 (4). The
15 recipient of any information from the records shall keep the information confidential
16 except as necessary to comply with ~~s. 971.17~~ subch. III of ch. 975.

17 **SECTION 15.** 51.30 (4) (b) 9. of the statutes is amended to read:

18 51.30 **(4)** (b) 9. To a facility which is to receive an individual who is involuntarily
19 committed under this chapter, ch. 975, 2007 stats., or ch. 48, 938, ~~971,~~ or 975 upon
20 transfer of the individual from one treatment facility to another. Release of records
21 under this subdivision shall be limited to such treatment records as are required by
22 law, a record or summary of all somatic treatments, and a discharge summary. The
23 discharge summary may include a statement of the patient's problem, the treatment
24 goals, the type of treatment which has been provided, and recommendation for future

1 treatment, but it may not include the patient's complete treatment record. The
2 department shall promulgate rules to implement this subdivision.

3 **SECTION 16.** 51.30 (4) (b) 11. of the statutes is amended to read:

4 51.30 (4) (b) 11. To the subject individual's counsel or guardian ad litem and
5 the corporation counsel, without modification, at any time in order to prepare for
6 involuntary commitment or recommitment proceedings, reexaminations, appeals, or
7 other actions relating to detention, admission, commitment, or patients' rights under
8 this chapter, ch. 975., 2007 stats., or ch. 48, ~~971~~, 975, or 980.

9 **SECTION 17.** 51.30 (4) (b) 12m. of the statutes is amended to read:

10 51.30 (4) (b) 12m. To any person if the patient was admitted under s. ~~971.14,~~
11 ~~971.17 or 980.06,~~ ch. 975, 2007 stats., or ch. 975 or transferred under s. 51.35 (3) or
12 51.37 and is on unauthorized absence from a treatment facility. Information released
13 under this subdivision is limited to information that would assist in the
14 apprehension of the patient.

15 **SECTION 18.** 51.30 (4) (b) 16. of the statutes is amended to read:

16 51.30 (4) (b) 16. If authorized by the secretary or his or her designee, to a law
17 enforcement agency upon request if the individual was admitted under ch. ~~971~~ 975,
18 2007 stats., or ch. 975 or transferred under s. 51.35 (3) or 51.37. Information released
19 under this subdivision is limited to the individual's name and other identifying
20 information, including photographs and fingerprints, the branch of the court that
21 committed the individual, the crime that the individual is charged with, found not
22 guilty of by reason of mental disease or defect or convicted of, whether or not the
23 individual is or has been authorized to leave the grounds of the institution and
24 information as to the individual's whereabouts during any time period. In this
25 subdivision "law enforcement agency" has the meaning provided in s. 165.83 (1) (b).

1 **SECTION 19.** 51.30 (7) of the statutes is amended to read:

2 51.30 (7) **CRIMINAL COMMITMENTS.** Except as otherwise specifically provided,
3 this section applies to the treatment records of persons who are committed under ~~chs.~~
4 ~~971 and ch. 975, 2007 stats., or ch. 975.~~

5 **SECTION 20.** 51.37 (1) of the statutes is amended to read:

6 51.37 (1) All commitments under s. 975.01, 1977 stats., and s. 975.02, 1977
7 stats., and under ~~ss. 971.14 (5), 971.17 s. 975.06, 2007 stats., and 975.06 ss. 975.34,~~
8 ~~975.55, and 975.57~~ shall be to the department.

9 **SECTION 21.** 51.37 (3) of the statutes is amended to read:

10 51.37 (3) The Mendota and Winnebago mental health institutes may be used
11 for the custody, care and treatment of persons committed or transferred thereto
12 pursuant to this section ~~and chs. 971 and, ch. 975, 2007 stats., or ch. 975.~~

13 **SECTION 22.** 51.37 (4) of the statutes is amended to read:

14 51.37 (4) The department may, with the approval of the committing court and
15 the county department under s. 51.42 or 51.437, and subject to s. 51.35, transfer to
16 the care and custody of a county department under s. 51.42 or 51.437 any person in
17 an institution of the department committed under ~~s. 971.14 or 971.17 ch. 975,~~ if in
18 its opinion, the mental condition of the person is such that further care is required
19 and can be properly provided under the direction of the county department under s.
20 51.42 or 51.437.

21 **SECTION 23.** 51.37 (9) of the statutes is amended to read:

22 51.37 (9) If in the judgment of the director of Mendota Mental Health Institute,
23 Winnebago Mental Health Institute or the Milwaukee County Mental Health
24 Complex, any person who is committed under ~~s. 971.14 or 971.17 ch. 975~~ is not in
25 such condition as warrants his or her return to the court but is in a condition to

1 receive a conditional transfer or discharge under supervision, the director shall
2 report to the department of health services, the committing court and the district
3 attorney of the county in which the court is located his or her reasons for the
4 judgment. If the court does not file objection to the conditional transfer or discharge
5 within 60 days of the date of the report, the director may, with the approval of the
6 department of health services, conditionally transfer any person to a legal guardian
7 or other person, subject to the rules of the department of health services. Before a
8 person is conditionally transferred or discharged under supervision under this
9 subsection, the department of health services shall so notify the municipal police
10 department and county sheriff for the area where the person will be residing. The
11 notification requirement does not apply if a municipal department or county sheriff
12 submits to the department of health services a written statement waiving the right
13 to be notified. The department of health services may contract with the department
14 of corrections for the supervision of persons who are transferred or discharged under
15 this subsection.

16 **SECTION 24.** 51.37 (10) (am) of the statutes is amended to read:

17 51.37 (10) (am) The director of a state treatment facility may grant to any
18 patient admitted to the facility as a result of a commitment under ch. ~~971~~ 975, 2007
19 stats., or ch. 975, a home visit for up to 15 days, or a leave for employment or
20 education purposes in which the patient is not absent from the facility for more than
21 15 days.

22 **SECTION 25.** 51.375 (1) (a) of the statutes is amended to read:

23 51.375 (1) (a) "Community placement" means conditional transfer into the
24 community under s. 51.35 (1), conditional release under s. ~~971.17~~ 975.57 or 975.59,

1 parole from a commitment for specialized treatment under ch. 975, 2007 stats., or
2 supervised release under ch. 980.

3 **SECTION 26.** 51.39 of the statutes is amended to read:

4 **51.39 Resident patients on unauthorized absence.** If any patient who is
5 admitted, transferred, or placed under s. 55.06, 2003 stats., ~~or~~ s. 51.13, 51.15, 51.20,
6 51.35 (3), 51.37, or 51.45 (11) (b), (12) or (13), ch. 975, 2007 stats., or ch. 55, ~~971~~, 975,
7 or 980 is on unauthorized absence from a treatment facility, the sheriff or any other
8 law enforcement agency in the county in which the patient is found or in which it is
9 believed the patient may be present, upon the request of the director, shall take
10 charge of and return the patient to the facility. The costs incident to the return shall
11 be paid out of the facility's operating funds and be charged back to the patient's
12 county of residence.

13 **SECTION 27.** 51.42 (3) (as) 1m. of the statutes, as affected by 2009 Wisconsin
14 Act 28, is amended to read:

15 51.42 (3) (as) 1m. A county department shall reimburse a mental health
16 institute at the institute's daily rate for custody of any person who is ordered by a
17 court located in that county to be examined at the mental health institute under s.
18 ~~971.14 (2)~~ 975.32 for all days that the person remains in custody at the mental health
19 institute, beginning 48 hours, not including Saturdays, Sundays, and legal holidays,
20 after the sheriff and county department receive notice under s. ~~971.14 (2) (d)~~ 975.32
21 (5) that the examination has been completed.

22 **SECTION 28.** 51.42 (3) (as) 1r. of the statutes, as affected by 2009 Wisconsin Act
23 28, is amended to read:

24 51.42 (3) (as) 1r. A county department shall authorize all care of any patient
25 in a state, local, or private facility under a contractual agreement between the county

1 department and the facility, unless the county department governs the facility. The
2 need for inpatient care shall be determined by the program director or designee in
3 consultation with and upon the recommendation of a licensed physician trained in
4 psychiatry and employed by the county department or its contract agency. In cases
5 of emergency, a facility under contract with any county department shall charge the
6 county department having jurisdiction in the county where the patient is found. The
7 county department shall reimburse the facility for the actual cost of all authorized
8 care and services less applicable collections under s. 46.036, unless the department
9 of health services determines that a charge is administratively infeasible, or unless
10 the department of health services, after individual review, determines that the
11 charge is not attributable to the cost of basic care and services. Except as provided
12 in subd. 1m., a county department may not reimburse any state institution or receive
13 credit for collections for care received in a state institution by nonresidents of this
14 state, interstate compact clients, transfers under s. 51.35 (3), transfers from
15 Wisconsin state prisons under s. 51.37 (5) (a), commitments under s. 975.01, 1977
16 stats., ~~or s. 975.02, 1977 stats., or s. 975.06, 2007 stats., or s. 971.14, 971.17 or 975.06~~
17 ch. 975 or admissions under s. 975.17, 1977 stats., or children placed in the
18 guardianship of the department of children and families under s. 48.427 or 48.43 or
19 under the supervision of the department of corrections under s. 938.183 or 938.355.
20 The exclusionary provisions of s. 46.03 (18) do not apply to direct and indirect costs
21 that are attributable to care and treatment of the client.

22 **SECTION 29.** 51.437 (4rm) (a) of the statutes is amended to read:

23 51.437 (4rm) (a) A county department of developmental disabilities services
24 shall authorize all care of any patient in a state, local, or private facility under a
25 contractual agreement between the county department of developmental disabilities

1 services and the facility, unless the county department of developmental disabilities
2 services governs the facility. The need for inpatient care shall be determined by the
3 program director or designee in consultation with and upon the recommendation of
4 a licensed physician trained in psychiatry and employed by the county department
5 of developmental disabilities services or its contract agency prior to the admission
6 of a patient to the facility except in the case of emergency services. In cases of
7 emergency, a facility under contract with any county department of developmental
8 disabilities services shall charge the county department of developmental
9 disabilities services having jurisdiction in the county where the individual receiving
10 care is found. The county department of developmental disabilities services shall
11 reimburse the facility, except as provided under par. (c), for the actual cost of all
12 authorized care and services less applicable collections under s. 46.036, unless the
13 department of health services determines that a charge is administratively
14 infeasible, or unless the department of health services, after individual review,
15 determines that the charge is not attributable to the cost of basic care and services.
16 The exclusionary provisions of s. 46.03 (18) do not apply to direct and indirect costs
17 which are attributable to care and treatment of the client. County departments of
18 developmental disabilities services may not reimburse any state institution or
19 receive credit for collections for care received in a state institution by nonresidents
20 of this state, interstate compact clients, transfers under s. 51.35 (3) (a), commitments
21 under s. 975.01, 1977 stats., or s. 975.02, 1977 stats., or s. ~~971.14, 971.17~~ or 975.06,
22 2007 stats., or ch. 975, admissions under s. 975.17, 1977 stats., children placed in the
23 guardianship of the department of children and families under s. 48.427 or 48.43 or
24 juveniles under the supervision of the department of corrections under s. 938.183 or
25 938.355.

1 **SECTION 30.** 51.61 (1) (intro.) of the statutes is amended to read:

2 51.61 (1) (intro.) In this section, "patient" means any individual who is
3 receiving services for mental illness, developmental disabilities, alcoholism or drug
4 dependency, including any individual who is admitted to a treatment facility in
5 accordance with this chapter or ch. 48 or 55 or who is detained, committed or placed
6 under this chapter, ch. 975, 2007 stats., or ch. 48, 55, ~~971~~, 975, or 980, or who is
7 transferred to a treatment facility under s. 51.35 (3) or 51.37 or who is receiving care
8 or treatment for those conditions through the department or a county department
9 under s. 51.42 or 51.437 or in a private treatment facility. "Patient" does not include
10 persons committed under ch. 975, 2007 stats., who are transferred to or residing in
11 any state prison listed under s. 302.01. In private hospitals and in public general
12 hospitals, "patient" includes any individual who is admitted for the primary purpose
13 of treatment of mental illness, developmental disability, alcoholism or drug abuse
14 but does not include an individual who receives treatment in a hospital emergency
15 room nor an individual who receives treatment on an outpatient basis at those
16 hospitals, unless the individual is otherwise covered under this subsection. Except
17 as provided in sub. (2), each patient shall:

18 **SECTION 31.** 51.61 (1) (e) of the statutes is amended to read:

19 51.61 (1) (e) Except in the case of a patient who is admitted or transferred under
20 s. 51.35 (3) or 51.37, ch. 975, 2007 stats., or ~~under ch. 971 or 975~~, have the right to
21 the least restrictive conditions necessary to achieve the purposes of admission,
22 commitment or protective placement, under programs, services and resources that
23 the county board of supervisors is reasonably able to provide within the limits of
24 available state and federal funds and of county funds required to be appropriated to
25 match state funds.

1 **SECTION 32.** 51.61 (1) (i) 1. of the statutes is amended to read:

2 51.61 (1) (i) 1. Except as provided in subd. 2., have a right to be free from
3 physical restraint and isolation except for emergency situations or when isolation or
4 restraint is a part of a treatment program. Isolation or restraint may be used only
5 when less restrictive measures are ineffective or not feasible and shall be used for
6 the shortest time possible. When a patient is placed in isolation or restraint, his or
7 her status shall be reviewed once every 30 minutes. Each facility shall have a written
8 policy covering the use of restraint or isolation that ensures that the dignity of the
9 individual is protected, that the safety of the individual is ensured, and that there
10 is regular, frequent monitoring by trained staff to care for bodily needs as may be
11 required. Isolation or restraint may be used for emergency situations only when it
12 is likely that the patient may physically harm himself or herself or others. The
13 treatment director shall specifically designate physicians who are authorized to
14 order isolation or restraint, and shall specifically designate licensed psychologists
15 who are authorized to order isolation. If the treatment director is not a physician,
16 the medical director shall make the designation. In the case of a center for the
17 developmentally disabled, use shall be authorized by the director of the center. The
18 authorization for emergency use of isolation or restraint shall be in writing, except
19 that isolation or restraint may be authorized in emergencies for not more than one
20 hour, after which time an appropriate order in writing shall be obtained from the
21 physician or licensed psychologist designated by the director, in the case of isolation,
22 or the physician so designated in the case of restraint. Emergency isolation or
23 restraint may not be continued for more than 24 hours without a new written order.
24 Isolation may be used as part of a treatment program if it is part of a written
25 treatment plan, and the rights specified in this subsection are provided to the

1 patient. The use of isolation as a part of a treatment plan shall be explained to the
2 patient and to his or her guardian, if any, by the person who provides the treatment.
3 A treatment plan that incorporates isolation shall be evaluated at least once every
4 2 weeks. Patients who have a recent history of physical aggression may be restrained
5 during transport to or from the facility. Persons who are committed or transferred
6 under s. 51.35 (3) or 51.37, under ch. 975, 2007 stats., or under ch. 971 or 975, or who
7 are detained or committed under ch. 980, and who, while under this status, are
8 transferred to a hospital, as defined in s. 50.33 (2), for medical care may be isolated
9 for security reasons within locked facilities in the hospital. Patients who are
10 committed or transferred under ch. 975, 2007 stats., under s. 51.35 (3) or 51.37, or
11 under ch. 971 or 975, or who are detained or committed under ch. 980, may be
12 restrained for security reasons during transport to or from the facility.

13 **SECTION 33.** 51.87 (3) of the statutes is amended to read:

14 51.87 (3) PURCHASE OF SERVICES. A county department under s. 46.23, 51.42,
15 or 51.437 may contract as provided under this section with public or private agencies
16 in states bordering on Wisconsin to secure services under this chapter for persons
17 who receive services through the county department, except that services may not
18 be secured for persons committed under s. ~~971.14 or 971.17~~ ch. 975. Section 46.036
19 (1) to (6) applies to contracts entered into under this section by county departments
20 under s. 46.23, 51.42, or 51.437.

21 **SECTION 34.** 55.043 (6) (bt) 8. of the statutes is amended to read:

22 55.043 (6) (bt) 8. To the attorney or guardian ad litem for the adult at risk who
23 is the alleged victim named in the record, to assist in preparing for any proceeding
24 under this chapter, ch. 975, 2007 stats., or ch. 48, 51, 54, 813, ~~971~~, or 975 pertaining
25 to the alleged victim.

1 **SECTION 35.** 55.075 (intro.) of the statutes is amended to read:

2 **55.075 Protective services or protective placement; petition.** (intro.)

3 Except as provided in s. ~~971.14 (6) (b)~~ 975.38:

4 **SECTION 36.** 146.82 (2) (c) of the statutes is amended to read:

5 146.82 (2) (c) Notwithstanding sub. (1), patient health care records shall be
6 released to appropriate examiners and facilities in accordance with s. ~~971.17 (2) (e),~~
7 ~~(4) (e), and (7) (e)~~ 975.56 (2), 975.59 (3), and 975.63 (4). The recipient of any
8 information from the records shall keep the information confidential except as
9 necessary to comply with s. ~~971.17 subch. III~~ of ch. 975.

10 **SECTION 37.** 165.76 (1) (b) of the statutes is amended to read:

11 165.76 (1) (b) Is found not guilty or not responsible by reason of mental disease
12 or defect on or after August 12, 1993, and committed under s. 51.20 or ~~971.17 subch.~~
13 III of ch. 975 for any violation of s. 940.225 (1) or (2), 948.02 (1) or (2), 948.025, or
14 948.085.

15 **SECTION 38.** 165.76 (2) (b) 3. of the statutes is amended to read:

16 165.76 (2) (b) 3. If the person has been committed to the department of health
17 services under s. 51.20 or ~~971.17 subch. III~~ of ch. 975 or found to be a sexually violent
18 person under ch. 980, he or she shall provide the specimen under par. (a) as directed
19 by the department of health services.

20 **SECTION 39.** 165.76 (3) of the statutes is amended to read:

21 165.76 (3) If a person is required to submit a biological specimen under s. 51.20
22 (13) (cr), 938.34 (15), ~~971.17 (1m) (a)~~, 973.047, 975.54 (2), or 980.063, he or she shall
23 comply with that requirement and is not required to comply with this section.

24 **SECTION 40.** 165.77 (2) (b) of the statutes is amended to read:

1 165.77 (2) (b) Paragraph (a) does not apply to specimens received under s. 51.20
2 (13) (cr), 165.76, 938.34 (15), ~~971.17 (1m) (a)~~, 973.047, 975.54 (2), or 980.063.

3 **SECTION 41.** 165.77 (2m) (c) of the statutes is amended to read:

4 165.77 (2m) (c) Paragraph (b) does not apply to specimens received under s.
5 51.20 (13) (cr), 165.76, 938.34 (15), ~~971.17 (1m) (a)~~, 973.047, 975.54 (2), or 980.063.

6 **SECTION 42.** 165.77 (3) of the statutes is amended to read:

7 165.77 (3) If the laboratories receive a human biological specimen under s.
8 51.20 (13) (cr), 165.76, 938.34 (15), ~~971.17 (1m) (a)~~, 973.047, 975.54 (2), or 980.063,
9 the laboratories shall analyze the deoxyribonucleic acid in the specimen. The
10 laboratories shall maintain a data bank based on data obtained from
11 deoxyribonucleic acid analysis of those specimens. The laboratories may compare
12 the data obtained from one specimen with the data obtained from other specimens.
13 The laboratories may make data obtained from any analysis and comparison
14 available to law enforcement agencies in connection with criminal or delinquency
15 investigations and, upon request, to any prosecutor, defense attorney or subject of
16 the data. The data may be used in criminal and delinquency actions and proceedings.
17 The laboratories shall destroy specimens obtained under this subsection after
18 analysis has been completed and the applicable court proceedings have concluded.

19 **SECTION 43.** 165.81 (3) (b) of the statutes is amended to read:

20 165.81 (3) (b) Except as provided in par. (c), if physical evidence that is in the
21 possession of the laboratories includes any biological material that was collected in
22 connection with a criminal investigation that resulted in a criminal conviction, a
23 delinquency adjudication, or commitment under s. ~~971.17~~ or 980.06 or subch. III of
24 ch. 975 and the biological material is from a victim of the offense that was the subject
25 of the criminal investigation or may reasonably be used to incriminate or exculpate

1 any person for the offense, the laboratories shall preserve the physical evidence until
2 every person in custody as a result of the conviction, adjudication, or commitment
3 has reached his or her discharge date.

4 **SECTION 44.** 301.03 (3c) of the statutes is amended to read:

5 301.03 (3c) If requested by the department of health services, contract with
6 that department to supervise and provide services to persons who are conditionally
7 transferred or discharged under s. 51.37 (9), conditionally released under s. 971.17
8 (3) 975.57 (4) or 975.59, or placed on supervised release under s. 980.06 (2), 1997
9 stats., or s. 980.08.

10 **SECTION 45.** 301.035 (2) of the statutes is amended to read:

11 301.035 (2) Assign hearing examiners from the division to preside over
12 hearings under s. 975.10 (2), 2007 stats., ss. 302.11 (7), 302.113 (9), 302.114 (9),
13 938.357 (5), and 973.10 and 975.10 (2), and ch. 304.

14 **SECTION 46.** 301.035 (4) of the statutes is amended to read:

15 301.035 (4) Supervise employees in the conduct of the activities of the division
16 and be the administrative reviewing authority for decisions of the division under s.
17 975.10 (2), 2007 stats., ss. 302.11 (7), 302.113 (9), 302.114 (9), 938.357 (5), 973.10, and
18 973.155 (2) and 975.10 (2), and ch. 304.

19 **SECTION 47.** 301.45 (1g) (c) of the statutes is amended to read:

20 301.45 (1g) (c) Is found not guilty or not responsible by reason of mental disease
21 or defect on or after December 25, 1993, and committed under s. 51.20 or 971.17
22 subch. III of ch. 975 for a sex offense.

23 **SECTION 48.** 301.45 (1g) (d) of the statutes is amended to read:

1 301.45 (1g) (d) Is in institutional care or on conditional transfer under s. 51.35
2 (1) or conditional release under s. ~~971.17~~ 975.57 (4) or 975.59 on or after
3 December 25, 1993, for a sex offense.

4 **SECTION 49.** 301.45 (1g) (dd) of the statutes is amended to read:

5 301.45 (1g) (dd) Is in institutional care or on conditional transfer under s. 51.35
6 (1) or conditional release under s. ~~971.17~~ 975.57 (4) or 975.59 on or after
7 December 25, 1993, for a violation, or for the solicitation, conspiracy or attempt to
8 commit a violation, of a law of this state that is comparable to a sex offense.

9 **SECTION 50.** 301.45 (1g) (dp) of the statutes is amended to read:

10 301.45 (1g) (dp) Is in institutional care under, or on parole from, a commitment
11 for specialized treatment under ch. 975, 2007 stats., on or after December 25, 1993.

12 **SECTION 51.** 301.45 (1g) (e) of the statutes is amended to read:

13 301.45 (1g) (e) Is ordered by a court under s. 51.20 (13) (ct) 1m., 938.34 (15m)
14 (am), 938.345 (3), ~~971.17 (1m) (b) 1m. or 973.048 (1m), or 975.54 (3) (a)~~ to comply with
15 the reporting requirements under this section.

16 **SECTION 52.** 301.45 (1m) (b) of the statutes is amended to read:

17 301.45 (1m) (b) If a person believes that he or she is not required under par.
18 (a) to comply with the reporting requirements under this section and the person is
19 not before the court under s. 51.20 (13) (ct), 938.34 (15m), ~~971.17 (1m) (b) or 973.048,~~
20 or 975.54 (3), the person may move a court to make a determination of whether the
21 person satisfies the criteria specified in par. (a). A motion made under this
22 paragraph shall be filed with the circuit court for the county in which the person was
23 convicted, adjudicated delinquent or found not guilty or not responsible by reason of
24 mental disease or defect.

25 **SECTION 53.** 301.45 (1m) (be) of the statutes is amended to read:

1 301.45 (1m) (be) A person who files a motion under par. (b) or s. 51.20 (13) (ct)
2 2m., 938.34 (15m) (bm), ~~971.17 (1m) (b) 2m. or 973.048 (2m), or 975.54 (3) (b)~~
3 requesting a determination of whether the person is required to comply with the
4 reporting requirements under this section shall send a copy of the motion to the
5 district attorney for the county in which the motion is filed. The district attorney
6 shall make a reasonable attempt to contact the victim of the crime that is the subject
7 of the person's motion to inform the victim of his or her right to make or provide a
8 statement under par. (bv).

9 **SECTION 54.** 301.45 (1m) (bm) of the statutes is amended to read:

10 301.45 (1m) (bm) A court shall hold a hearing on a motion made by a person
11 under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), ~~971.17 (1m) (b) 2m. or~~
12 ~~973.048 (2m), or 975.54 (3) (b)~~ requesting a determination of whether the person is
13 required to comply with the reporting requirements under this section. The district
14 attorney who receives a copy of a motion under par. (be) may appear at the hearing.

15 **SECTION 55.** 301.45 (1m) (bv) of the statutes is amended to read:

16 301.45 (1m) (bv) Before deciding a motion filed under par. (b) or s. 51.20 (13)
17 (ct) 2m., 938.34 (15m) (bm), ~~971.17 (1m) (b) 2m. or 973.048 (2m), or 975.54 (3) (b)~~
18 requesting a determination of whether the person is required to comply with the
19 reporting requirements under this section, the court shall allow the victim of the
20 crime that is the subject of the motion to make a statement in court at the hearing
21 under par. (bm) or to submit a written statement to the court. A statement under this
22 paragraph must be relevant to whether the person satisfies the criteria specified in
23 par. (a).

24 **SECTION 56.** 301.45 (1m) (d) 1. of the statutes is amended to read:

1 301.45 (1m) (d) 1. Before deciding a motion filed by a person under par. (b) or
2 s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), ~~971.17 (1m) (b) 2m. or~~ 973.048 (2m), or
3 975.54 (3) (b) requesting a determination of whether the person is required to comply
4 with the reporting requirements under this section, a court may request the person
5 to be examined by a physician, psychologist, or other expert approved by the court.
6 If the person refuses to undergo an examination requested by the court under this
7 subdivision, the court shall deny the person's motion without prejudice.

8 **SECTION 57.** 301.45 (1m) (e) (intro.) of the statutes is amended to read:

9 301.45 (1m) (e) (intro.) At the hearing held under par. (bm), the person who
10 filed the motion under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), ~~971.17 (1m)~~
11 ~~(b) 2m. or~~ 973.048 (2m), or 975.54 (3) (b) has the burden of proving by clear and
12 convincing evidence that he or she satisfies the criteria specified in par. (a). In
13 deciding whether the person has satisfied the criterion specified in par. (a) 3., the
14 court may consider any of the following:

15 **SECTION 58.** 301.45 (3) (a) 3. of the statutes is amended to read:

16 301.45 (3) (a) 3. If the person has been committed under s. 51.20 or ~~971.17~~
17 subch. II of ch. 975, he or she is subject to this subsection upon being placed on
18 conditional release under s. ~~971.17~~ 975.57 (4) or 975.59 or on a conditional transfer
19 under s. 51.35 (1) or, if he or she was not placed on conditional release or on a
20 conditional transfer, before he or she is terminated under s. ~~971.17 (5)~~ 975.60 or
21 discharged under s. 51.35 (4) or ~~971.17 (6)~~ 975.61.

22 **SECTION 59.** 301.45 (3) (a) 3g. of the statutes is amended to read:

23 301.45 (3) (a) 3g. If the person has been committed for specialized treatment
24 under ch. 975, 2007 stats., he or she is subject to this subsection upon being released
25 on parole under s. 975.10, 2007 stats., or, if he or she was not released on parole,

1 before being discharged from the commitment under s. 975.09, 2007 stats., or s.
2 975.12, 2007 stats.

3 **SECTION 60.** 301.45 (3) (b) 3. of the statutes is amended to read:

4 301.45 (3) (b) 3. The department of health services shall notify a person who
5 is being placed on conditional release, supervised release, conditional transfer or
6 parole, or is being terminated or discharged from a commitment, under s. 51.20, or
7 51.35 ~~or 971.17 or, subch. III of ch. 975, ch. 975, 2007 stats., or ch. 980~~ and who is
8 covered under sub. (1g) of the need to comply with the requirements of this section.

9 **SECTION 61.** 301.45 (5) (a) 3. of the statutes is amended to read:

10 301.45 (5) (a) 3. If the person has been committed to the department of health
11 services under s. 51.20 or ~~971.17~~ subch. III of ch. 975 and is in institutional care or
12 on conditional transfer under s. 51.35 (1) or conditional release under s. ~~971.17~~
13 975.57 (4) or 975.59 for a sex offense, 15 years after termination of the commitment
14 for the sex offense under s. ~~971.17 (5)~~ 975.60 or discharge from the commitment for
15 the sex offense under s. 51.35 (4) or ~~971.17 (6)~~ 975.61.

16 **SECTION 62.** 301.45 (5) (a) 3m. of the statutes is amended to read:

17 301.45 (5) (a) 3m. If the person has been committed for specialized treatment
18 under ch. 975, 2007 stats., 15 years after discharge from the commitment under s.
19 975.09, 2007 stats., or s. 975.12, 2007 stats.

20 **SECTION 63.** 301.45 (5) (b) 3. of the statutes is amended to read:

21 301.45 (5) (b) 3. The court that ordered the person to comply with the reporting
22 requirements of this section under s. 51.20 (13) (ct), 938.34 (15m), 938.345 (3), ~~971.17~~
23 ~~(1m) (b) or 973.048, or 975.54 (3)~~ also ordered the person to comply with the
24 requirements until his or her death.

25 **SECTION 64.** 301.45 (6) (a) 2. a. of the statutes is amended to read:

1 301.45 **(6)** (a) 2. a. The person was ordered under s. 51.20 (13) (ct) 1m., 938.34
2 (15m) (am), 938.345 (3), ~~971.17 (1m) (b) 1m., or 973.048 (1m), or 975.54 (3) (a)~~ to
3 comply with the reporting requirements under this section based on a finding that
4 he or she committed or solicited, conspired, or attempted to commit a misdemeanor.

5 **SECTION 65.** 301.45 (6) (ag) 2. a. of the statutes is amended to read:

6 301.45 **(6)** (ag) 2. a. The person was ordered under s. 51.20 (13) (ct) 1m., 938.34
7 (15m) (am), 938.345 (3), ~~971.17 (1m) (b) 1m., or 973.048 (1m), or 975.54 (3) (a)~~ to
8 comply with the reporting requirements under s. 301.45 based on a finding that he
9 or she committed or solicited, conspired, or attempted to commit a misdemeanor.

10 **SECTION 66.** 301.46 (3) (d) of the statutes is amended to read:

11 301.46 **(3)** (d) The department of health services shall provide the department
12 with access to the names of victims or the family members of victims who have
13 completed cards requesting notification under s. ~~971.17 (6m)~~ 975.62 or 980.11.

14 **SECTION 67.** 301.47 (3) (b) 1. of the statutes is amended to read:

15 301.47 **(3)** (b) 1. The person was ordered under s. 51.20 (13) (ct) 1m., 938.34
16 (15m) (am), 938.345 (3), ~~971.17 (1m) (b) 1m., or 973.048 (1m), or 975.54 (3) (a)~~ to
17 comply with the reporting requirements under s. 301.45 based on a finding that he
18 or she committed or solicited, conspired, or attempted to commit a misdemeanor.

19 **SECTION 68.** 301.48 (2) (a) 4. of the statutes is amended to read:

20 301.48 **(2)** (a) 4. A court that found the person not guilty of a serious child sex
21 offense by reason of mental disease or mental defect places the person on conditional
22 release.

23 **SECTION 69.** 301.48 (2) (a) 5. of the statutes is amended to read:

24 301.48 **(2)** (a) 5. A court that found the person not guilty of a serious child sex
25 offense by reason of mental disease or mental defect discharges the person under s.

1 ~~971.17 (6)~~ 975.61. This subdivision does not apply if the person was on conditional
2 release immediately before being discharged.

3 **SECTION 70.** 301.48 (2) (b) 3. of the statutes is amended to read:

4 301.48 **(2)** (b) 3. The department of health services places the person on parole
5 or discharges the person under ch. 975, 2007 stats. This subdivision does not apply
6 unless the person's commitment was based on his or her commission of a serious child
7 sex offense.

8 **SECTION 71.** 322.0767 (1) (a) of the statutes is amended to read:

9 322.0767 **(1)** (a) If a person subject to a general court-martial is found to lack
10 substantial mental capacity to understand the proceedings or assist in his or own
11 defense and the military judge determined that the person is likely to become
12 competent within the maximum period ~~specified under s. 971.14 (5) (a) of~~
13 commitment, as defined in s. 975.34 (6) (a), the court-martial convening authority
14 for the person shall commit the person to the custody of the department of health
15 services ~~under as provided in s. 971.14 (5)~~ 975.34 (7). If the military judge determines
16 that the defendant is not likely to become competent ~~in within the time~~ maximum
17 ~~period specified under s. 971.14 (5) of commitment,~~ the military judge shall suspend
18 or terminate the general court-martial.

19 **SECTION 72.** 322.0767 (1) (b) of the statutes is amended to read:

20 322.0767 **(1)** (b) The department of health services shall submit all reports that
21 are required under s. ~~971.14 (5) (b)~~ 975.36 and that pertain to a person subject to a
22 commitment order under par. (a) to the court-martial.

23 **SECTION 73.** 322.0767 (1) (c) of the statutes, as affected by 2009 Wisconsin Act
24 180, is amended to read:

1 322.0767 (1) (c) Upon receiving a report under s. ~~971.14 (5) (b)~~ 975.36, the
2 court-martial shall make a determination as to whether the person has become
3 competent. If the court-martial determines that the defendant has become
4 competent, the court-martial shall terminate the commitment to the department of
5 health services and resume the general court-martial. If the court-martial
6 determines that the person is making sufficient progress toward becoming
7 competent, the commitment shall continue. If the court-martial determines that the
8 person is not likely to become competent to proceed ~~in~~ within the time maximum
9 period ~~specified under s. 971.14 (5) (a) of commitment, as defined under s. 971.34 (6)~~
10 (a), the court-martial shall suspend or terminate the commitment order under this
11 subsection.

12 **SECTION 74.** 322.0767 (1) (d) of the statutes is amended to read:

13 322.0767 (1) (d) If a person who has been restored to competency again becomes
14 incompetent, the maximum commitment period under s. ~~971.14 (5) (a) of~~
15 commitment shall be as provided under s. ~~971.14 (5) (d)~~ 975.36 (6).

16 **SECTION 75.** 322.0767 (2) (b) of the statutes is amended to read:

17 322.0767 (2) (b) Using the standard under s. ~~971.17 (3) (a)~~ 975.57 (1), the
18 court-martial shall determine whether the commitment order under par. (a) shall
19 specify institutional care or conditional release.

20 **SECTION 76.** 322.0767 (2) (c) of the statutes is amended to read:

21 322.0767 (2) (c) The court-martial has the same authority as a circuit court has
22 under s. ~~971.17 (2)~~ 975.55 to order the department of health services to conduct a
23 predisposition investigation using the procedure in s. 972.15 or a mental
24 examination as provided under s. ~~971.17 (2) (b), (c), and (e)~~ 975.56 to assist the

1 court-martial in determining whether to place the person in institutional care or to
2 conditionally release the person.

****NOTE: Check reference to s. 972.15 when compile drafts.

3 **SECTION 77.** 322.0767 (2) (d) of the statutes is amended to read:

4 322.0767 (2) (d) If the court-martial specifies institutional care, the
5 department of health services shall place the person in an institution as provided
6 under s. 971.17 (3) (e) 975.57 (3). If the court-martial specifies conditional release,
7 the department of health services, in conjunction with the person's county of
8 residence, shall develop a plan for conditional release as provided under s. 971.17 (3)
9 ~~(d)~~ 975.57 (4).

10 **SECTION 78.** 785.03 (1) (b) of the statutes is amended to read:

11 785.03 (1) (b) *Punitive sanction.* The district attorney of a county, the attorney
12 general or a special prosecutor appointed by the court may seek the imposition of a
13 punitive sanction by issuing a complaint charging a person with contempt of court
14 and reciting the sanction sought to be imposed. The district attorney, attorney
15 general or special prosecutor may issue the complaint on his or her own initiative or
16 on the request of a party to an action or proceeding in a court or of the judge presiding
17 in an action or proceeding. The complaint shall be processed under chs. 967 to 973
18 and 975. If the contempt alleged involves disrespect to or criticism of a judge, that
19 judge is disqualified from presiding at the trial of the contempt unless the person
20 charged consents to the judge presiding at the trial.

21 **SECTION 79.** 801.02 (7) (a) 2. e. of the statutes is amended to read:

22 801.02 (7) (a) 2. e. A person who is not serving a sentence for the conviction of
23 a crime but who is detained, admitted or committed under ch. 51 or 55 or s. 971.14
24 ~~(2) or (5)~~ 975.32 or 975.34.

1 **SECTION 80.** 808.04 (3) of the statutes, as affected by 2009 Wisconsin Act 26,
2 is amended to read:

3 808.04 (3) Except as provided in subs. (4) and (7), an appeal in a proceeding
4 under ~~s. 971.17 subch. III of ch. 975~~, a criminal case, or a case under ch. 48, 51, 55,
5 938, or 980 shall be initiated within the time period specified in s. 809.30 (2) or 809.32
6 (2), whichever is applicable.

7 **SECTION 81.** 808.04 (4) of the statutes, as affected by 2009 Wisconsin Act 26,
8 is amended to read:

9 808.04 (4) Except as provided in sub. (7m), an appeal by the state in a
10 proceeding under ~~s. 971.17 subch. III of ch. 975~~, a criminal case under s. 974.05, or
11 a case under ch. 48, 938, or 980 shall be initiated within 45 days of entry of the
12 judgment or order appealed from.

13 **SECTION 82.** 808.075 (4) (b) 4. of the statutes is amended to read:

14 808.075 (4) (b) 4. Commitment, conditional release, recommitment, and
15 discharge under ~~s. 971.17 subch. III of ch. 975~~ of a person found not guilty by reason
16 of mental disease or defect.

17 **SECTION 83.** 808.075 (4) (g) 7. of the statutes is amended to read:

18 808.075 (4) (g) 7. Commitment, conditional release, recommitment, and
19 discharge under ~~s. 971.17 subch. III of ch. 975~~ of a person found not guilty by reason
20 of mental disease or defect.

21 **SECTION 84.** Subchapter III (title) of chapter 809 [precedes 809.30] of the
22 statutes, as affected by 2009 Wisconsin Act 26, is amended to read:

23 **CHAPTER 809**

24 **SUBCHAPTER III**

1 APPEAL PROCEDURE IN COURT OF
2 APPEALS IN S. 971.17 PROCEEDINGS
3 UNDER SUBCH. III OF CH. 975 AND
4 IN CRIMINAL AND CH. 48, 51, 55, 938,
5 AND 980 CASES

6 SECTION 85. 809.30 (title) of the statutes, as affected by 2009 Wisconsin Act 26,
7 is amended to read:

8 809.30 (title) **Rule (Appeals in s. 971.17 proceedings under subch. III of**
9 **ch. 975 and in criminal, ch. 48, 51, 55, 938, and 980 cases).**

10 SECTION 86. 809.30 (1) (a) of the statutes, as affected by 2009 Wisconsin Act 26,
11 is amended to read:

12 809.30 (1) (a) "Final adjudication" means the entry of a final judgment or order
13 by the circuit court in a s. 971.17 proceeding under subch. III of ch. 975, in a criminal
14 case, or in a ch. 48, 51, 55, 938, or 980 case, other than a termination of parental rights
15 case under s. 48.43 or a parental consent to abortion case under s. 48.375 (7).

16 SECTION 87. 809.30 (1) (b) 4. of the statutes, as affected by 2009 Wisconsin Act
17 26, is amended to read:

18 809.30 (1) (b) 4. A subject individual or ward seeking postdisposition relief in
19 a s. 971.17 proceeding under subch. III of ch. 975 or a case under ch. 51, 55, or 980.

20 SECTION 88. 809.30 (1) (e) of the statutes, as affected by 2009 Wisconsin Act 26,
21 is amended to read:

22 809.30 (1) (e) "Prosecutor" means a district attorney, corporation counsel, or
23 other attorney authorized by law to represent the state in a criminal case, a
24 proceeding under s. 971.17 subch. III of ch. 975, or a case under ch. 48, 51, 55, 938,
25 or 980.

1 **SECTION 89.** 809.30 (2) (a) of the statutes, as affected by 2009 Wisconsin Act 26,
2 is amended to read:

3 809.30 (2) (a) *Appeal procedure; counsel to continue.* A person seeking
4 postconviction relief in a criminal case; a person seeking postdisposition relief in a
5 case under ch. 48 other than a termination of parental rights case under s. 48.43 or
6 a parental consent to abortion case under s. 48.375 (7); or a person seeking
7 postdisposition relief in a ~~s. 971.17~~ proceeding under subch. III of ch. 975 or in a case
8 under ch. 51, 55, 938, or 980 shall comply with this section. Counsel representing
9 the person at sentencing or at the time of the final adjudication shall continue
10 representation by filing a notice under par. (b) if the person desires to pursue
11 postconviction or postdisposition relief unless counsel is discharged by the person or
12 allowed to withdraw by the circuit court before the notice must be filed.

13 **SECTION 90.** 895.54 of the statutes is amended to read:

14 **895.54 Liability exemption; notification of release.** A person is immune
15 from any liability regarding any act or omission regarding the notification of any
16 applicable office or person under s. 51.37 (10), 304.06 (1), ~~971.17 (4m) or (6m)~~ 975.62,
17 or 980.11. This section does not apply to willful or wanton acts or omissions.

18 **SECTION 91.** 907.06 (5) of the statutes is amended to read:

19 907.06 (5) **APPOINTMENT IN CRIMINAL CASES.** This section shall not apply to the
20 appointment of experts as provided by s. ~~971.16~~ 975.51.

21 **SECTION 92.** 911.01 (4) (c) of the statutes, as affected by 2009 Wisconsin Act 28,
22 is amended to read:

23 911.01 (4) (c) *Miscellaneous proceedings.* Proceedings for extradition or
24 rendition; sentencing, granting or revoking probation, modification of a sentence
25 under s. 302.1135, adjustment of a bifurcated sentence under s. 973.195 (1r), release

1 to extended supervision under s. 302.113 (2) (b) or 304.06 (1) or discharge under s.
2 973.01 (4m), issuance of arrest warrants, criminal summonses and search warrants;
3 hearings under s. 980.09 (2); proceedings under s. ~~971.14 (1) (e)~~ 975.31; proceedings
4 with respect to pretrial release under ch. 969 except where habeas corpus is utilized
5 with respect to release on bail or as otherwise provided in ch. 969.

6 **SECTION 93.** 938.30 (5) (c) (intro.) of the statutes is amended to read:

7 938.30 (5) (c) (intro.) If the court finds that the juvenile was not responsible by
8 reason of mental disease or defect, as described under s. ~~971.15~~ 975.50 (1) and (2),
9 the court shall dismiss the petition with prejudice and do one of the following:

10 **SECTION 94.** 938.30 (5) (d) (intro.) of the statutes is amended to read:

11 938.30 (5) (d) (intro.) If the court finds that the juvenile is not competent to
12 proceed, as described in s. ~~971.13~~ 975.30 (1) and (2), the court shall suspend
13 proceedings on the petition and do one of the following:

14 **SECTION 95.** 938.30 (5) (e) 1. (intro.) of the statutes is amended to read:

15 938.30 (5) (e) 1. (intro.) A juvenile who is not competent to proceed, as described
16 in s. ~~971.13~~ 975.30 (1) and (2), but who is likely to become competent to proceed
17 within 12 months or within the time period of the maximum sentence that may be
18 imposed on an adult for the most serious delinquent act with which the juvenile is
19 charged, whichever is less, and who is committed under s. 51.20 following an order
20 under par. (d) 1. or who is placed under a dispositional order following an order under
21 par. (d) 2., shall be periodically reexamined with written reports of those
22 reexaminations to be submitted to the court every 3 months and within 30 days
23 before the expiration of the juvenile's commitment or dispositional order. Each
24 report shall indicate one of the following:

25 **SECTION 96.** 939.615 (2) (a) of the statutes is amended to read:

1 939.615 (2) (a) Except as provided in par. (b), if a person is convicted of a serious
2 sex offense or found not guilty of a serious sex offense by reason of mental disease
3 or defect, the court may, in addition to sentencing the person, placing the person on
4 probation or, if applicable, committing the person under ~~s. 971.17~~ subch. III of ch.
5 975, place the person on lifetime supervision by the department if notice concerning
6 lifetime supervision was given to the person under s. 973.125 and if the court
7 determines that lifetime supervision of the person is necessary to protect the public.

8 **SECTION 97.** 939.615 (3) (d) of the statutes is amended to read:

9 939.615 (3) (d) If the person has been committed to the department of health
10 services under ~~s. 971.17~~ subch. III of ch. 975 for the serious sex offense, upon the
11 termination of his or her commitment under s. ~~971.17 (5)~~ 975.60 or his or her
12 discharge from the commitment under s. ~~971.17 (6)~~ 975.61, whichever is applicable.

13 **SECTION 98.** 946.42 (3) (g) of the statutes is amended to read:

14 946.42 (3) (g) Committed to the department of health services under ch. ~~971~~
15 975, 2007 stats., or ch. 975.

16 **SECTION 99.** 948.50 (4) (c) of the statutes is amended to read:

17 948.50 (4) (c) Is committed, transferred, or admitted under ch. 975, 2007 stats.
18 or ch. 51, 971 or 975.

19 **SECTION 100.** 949.165 (9) of the statutes is amended to read:

20 949.165 (9) INTERPLEADER. If a court determines that a person accused of a
21 serious crime is incompetent to proceed under s. ~~971.14~~ 975.34 or if the charges are
22 dismissed without prejudice, the department shall bring an action of interpleader to
23 determine the disposition of the escrow account.

24 **SECTION 101.** 950.04 (1v) (b) of the statutes is amended to read:

1 950.04 (1v) (b) To attend court proceedings in the case, subject to ss. 906.15 and
2 938.299 (1). The court may require the victim to exercise his or her right under this
3 paragraph using telephone or live audiovisual means, if available, if the victim is
4 under arrest, incarcerated, imprisoned or otherwise detained by any law
5 enforcement agency or is admitted or committed on an inpatient basis to a treatment
6 facility under ch. 51, ~~971.17~~ 975.62, or 980, and the victim does not have a person specified
7 in s. 950.02 (4) (a) 3. to exercise the victim's right under this paragraph.

8 **SECTION 102.** 950.04 (1v) (um) of the statutes is amended to read:

9 950.04 (1v) (um) To have district attorneys make a reasonable attempt to notify
10 the victim under s. ~~971.17 (4m)~~ 975.62 (2) regarding conditional releases under s.
11 ~~971.17~~ 975.57 (4) or 975.59.

12 **SECTION 103.** 950.04 (1v) (x) of the statutes is amended to read:

13 950.04 (1v) (x) To have the department of health services make a reasonable
14 attempt to notify the victim under s. ~~971.17 (6m)~~ 975.62 (3) regarding termination
15 or discharge under s. ~~971.17~~ 975.60 or 975.61 and under s. 51.37 (10) regarding home
16 visits under s. 51.37 (10).

17 **SECTION 104.** 967.02 (2) of the statutes is amended to read:

18 967.02 (2) "Department" means the department of corrections, except as
19 provided in s. ~~975.001~~ 975.20 (1).

20 **SECTION 105.** 967.08 (2) (b) of the statutes is amended to read:

21 967.08 (2) (b) Waiver of preliminary examination under s. 970.03, competency
22 hearing under s. ~~971.14 (4)~~ 975.34, or jury trial under s. 972.02 (1).

23 **SECTION 106.** 968.205 (1) (a) of the statutes is amended to read:

24 968.205 (1) (a) "Custody" means actual custody of a person under a sentence
25 of imprisonment, custody of a probationer, parolee, or person on extended

1 supervision by the department of corrections, actual or constructive custody of a
2 person pursuant to a dispositional order under ch. 938, supervision of a person,
3 whether in institutional care or on conditional release, pursuant to a commitment
4 order under ~~s. 971.17~~ subch. III of ch. 975, and supervision of a person under ch. 980,
5 whether in detention before trial or while in institutional care or on supervised
6 release pursuant to a commitment order.

7 **SECTION 107.** 968.205 (1) (b) of the statutes is amended to read:

8 968.205 (1) (b) "Discharge date" means the date on which a person is released
9 or discharged from custody that resulted from a criminal action, a delinquency
10 proceeding under ch. 938, or a commitment proceeding under ~~s. 971.17~~ subch. III of
11 ch. 975 or ch. 980 or, if the person is serving consecutive sentences of imprisonment,
12 the date on which the person is released or discharged from custody under all of the
13 sentences.

14 **SECTION 108.** 968.205 (2) of the statutes is amended to read:

15 968.205 (2) Except as provided in sub. (3), if physical evidence that is in the
16 possession of a law enforcement agency includes any biological material that was
17 collected in connection with a criminal investigation that resulted in a criminal
18 conviction, delinquency adjudication, or commitment under ~~s. 971.17~~ subch. III of ch.
19 975 or 980.06 and the biological material is from a victim of the offense that was the
20 subject of the criminal investigation or may reasonably be used to incriminate or
21 exculpate any person for the offense, the law enforcement agency shall preserve the
22 physical evidence until every person in custody as a result of the conviction,
23 adjudication, or commitment has reached his or her discharge date.

24 **SECTION 109.** 968.255 (7) (c) of the statutes is amended to read:

1 968.255 (7) (c) Is committed, transferred or admitted under ch. 975, 2007 stats.,
2 or ch. 51, 971 or 975.

3 **SECTION 110.** 968.38 (3) (d) of the statutes is amended to read:

4 968.38 (3) (d) If the court has determined that the defendant is not competent
5 to proceed under s. ~~971.14 (4)~~ 975.34 and suspended the criminal proceedings, at any
6 time after the determination that the defendant is not competent to proceed.

7 **SECTION 111.** 968.38 (4) (intro.) of the statutes is amended to read:

8 968.38 (4) (intro.) The court shall set a time for a hearing on the matter under
9 sub. (2) during the preliminary examination, if sub. (3) (a) applies; after the
10 defendant is bound over for trial and before a verdict is rendered, if sub. (3) (b)
11 applies; after conviction or a finding of not guilty by reason of mental disease or
12 defect, if sub. (3) (c) applies; or, subject to s. ~~971.13~~ 975.30 (4), after the determination
13 that the defendant is not competent, if sub. (3) (d) applies. The court shall give the
14 district attorney and the defendant notice of the hearing at least 72 hours prior to
15 the hearing. The defendant may have counsel at the hearing, and counsel may
16 examine and cross-examine witnesses. If the court finds probable cause to believe
17 that the defendant has significantly exposed the victim or alleged victim, the court
18 shall order the defendant to submit to a test or a series of tests administered by a
19 health care professional to detect the presence of HIV, antigen or nonantigenic
20 products of HIV, an antibody to HIV or a sexually transmitted disease. The court
21 shall require the health care professional who performs the test to disclose the test
22 results to the defendant. The court shall require the health care professional who
23 performs the test to refrain, notwithstanding s. 252.15 (4) (c), from making the test
24 results part of the defendant's permanent medical record and to disclose the results
25 of the test to any of the following:

1 **SECTION 112.** 968.38 (5) (intro.) of the statutes is amended to read:

2 968.38 (5) (intro.) The court shall set a time for a hearing on the matter under
3 sub. (2m) during the preliminary examination, if sub. (3) (a) applies; after the
4 defendant is bound over for trial and before a verdict is rendered, if sub. (3) (b)
5 applies; after conviction or a finding of not guilty by reason of mental disease or
6 defect, if sub. (3) (c) applies; or, subject to s. ~~971.13~~ 975.30 (4), after the determination
7 that the defendant is not competent, if sub. (3) (d) applies. The court shall give the
8 district attorney and the defendant notice of the hearing at least 72 hours prior to
9 the hearing. The defendant may have counsel at the hearing, and counsel may
10 examine and cross-examine witnesses. If the court finds probable cause to believe
11 that the act or alleged act of the defendant that constitutes a violation of s. 946.43
12 (2m) carried a potential for transmitting a communicable disease to the victim or
13 alleged victim and involved the defendant's blood, semen, vomit, saliva, urine or
14 feces or other bodily substance of the defendant, the court shall order the defendant
15 to submit to a test or a series of tests administered by a health care professional to
16 detect the presence of any communicable disease that was potentially transmitted
17 by the act or alleged act of the defendant. The court shall require the health care
18 professional who performs the test to disclose the test results to the defendant. The
19 court shall require the health care professional who performs the test to refrain,
20 notwithstanding s. 252.15 (4) (c), if applicable, from making the test results part of
21 the defendant's permanent medical record and to disclose the results of the test to
22 any of the following:

23 **SECTION 113.** 969.01 (1) of the statutes is amended to read:

24 969.01 (1) BEFORE CONVICTION. Before conviction, except as provided in ss. s.
25 969.035 and ~~971.14~~ (1) or 975.32, a defendant arrested for a criminal offense is

1 eligible for release under reasonable conditions designed to assure his or her
2 appearance in court, protect members of the community from serious bodily harm or
3 prevent the intimidation of witnesses. Bail may be imposed at or after the initial
4 appearance only upon a finding by the court that there is a reasonable basis to believe
5 that bail is necessary to assure appearance in court. In determining whether any
6 conditions of release are appropriate, the judge shall first consider the likelihood of
7 the defendant appearing for trial if released on his or her own recognizance.

8 **SECTION 114.** 971.13 of the statutes is renumbered 975.30, and 975.30 (3) and
9 (4), as renumbered, are amended to read:

10 975.30 (3) The fact that a defendant is not competent to proceed does not
11 preclude any legal objection to the prosecution under s. 971.31 which the court from
12 proceeding on any pretrial motion that is susceptible of to fair determination prior
13 to trial and without the personal participation of the defendant.

14 (4) The fact that a defendant is not competent to proceed does not preclude a
15 hearing under s. 968.38 (4) or (5) unless the court cannot fairly make the probable
16 cause finding required to be made at the hearing cannot be fairly made under s.
17 968.38 (4) or (5), whichever is applicable, without the personal participation of the
18 defendant.

19 **SECTION 115.** 971.14 (title) of the statutes is repealed.

20 **SECTION 116.** 971.14 (1) (title) of the statutes is repealed.

21 **SECTION 117.** 971.14 (1) (a) of the statutes is renumbered 975.31 (1).

22 **SECTION 118.** 971.14 (1) (b) of the statutes is renumbered 975.31 (3) and
23 amended to read:

24 975.31 (3) If reason to doubt a defendant's competency to proceed arises after
25 the defendant has been bound over for trial after a preliminary examination, or after

1 a finding of guilty has been rendered by the jury or made by the court, a guilt, no
2 probable cause determination shall not be finding is required and the court shall
3 proceed order an examination of the defendant under sub. (2) s. 975.32.

4 **SECTION 119.** 971.14 (1) (c) of the statutes is repealed.

5 **SECTION 120.** 971.14 (2) (title) of the statutes is repealed.

6 **SECTION 121.** 971.14 (2) (a) of the statutes is renumbered 975.32 (1) and
7 amended to read:

8 975.32 (1) If an examination of a defendant is required under s. 975.31, the
9 court shall order an examination into competency. The court shall may order the
10 department to conduct the examination or may appoint one or more examiners
11 having the specialized knowledge determined by the court to be appropriate to
12 examine and report upon the condition of the defendant. ~~If an inpatient examination~~
13 ~~is determined by the court to be necessary, the defendant may be committed to a~~
14 ~~suitable mental health facility for the examination period specified in par. (c), which~~
15 ~~shall be deemed days spent in custody under s. 973.155. If the examination is to be~~
16 ~~conducted by the department of health services, the court shall order the individual~~
17 ~~to the facility designated by the department of health services~~ the court orders the
18 department to conduct an examination, the department may select the examiner.

19 **SECTION 122.** 971.14 (2) (am) of the statutes is repealed.

20 **SECTION 123.** 971.14 (2) (b) of the statutes is renumbered 975.32 (3) and
21 amended to read:

22 975.32 (3) If the defendant has been released on bail from custody, the court
23 shall order an outpatient examination, except that the court may not order an
24 involuntary inpatient examination unless if the defendant consents to an inpatient
25 examination, the defendant fails to cooperate in the an outpatient examination, or

1 the examiner informs the court that inpatient observation is necessary for an
2 adequate examination.

3 **SECTION 124.** 971.14 (2) (c) of the statutes is renumbered 975.32 (6) (a) and
4 amended to read:

5 975.32 (6) (a) ~~Inpatient examinations shall be completed and the report of~~
6 ~~examination filed~~ An examiner ordered to conduct an inpatient examination under
7 this section shall complete the examination and file a report of the examination
8 within 15 days after the examination is ordered or as specified in par. (am),
9 whichever is applicable, unless, for good cause, the facility or examiner appointed by
10 the court cannot complete the examination within this period and requests an
11 extension. In that case, if the department is the examiner, within 15 days after the
12 defendant arrives at the inpatient facility. If the examiner cannot complete the
13 examination within 15 days and requests an extension, the court may for good cause
14 allow one 15-day extension of the examination period. Outpatient examinations
15 shall be completed and the report of examination filed

16 (b) An examiner ordered to conduct an outpatient examination under this
17 section shall complete the examination and file a report of the examination within
18 30 days after the examination is ordered.

19 **SECTION 125.** 971.14 (2) (d) of the statutes is renumbered 975.32 (5) and
20 amended to read:

21 975.32 (5) ~~If the court orders that the examination be conducted on an inpatient~~
22 basis a defendant in custody is subject to an inpatient examination ordered under
23 this section, the sheriff of the county in which the court that ordered the examination
24 is located shall transport any the defendant not free on bail to the examining facility
25 where the examination will take place within a reasonable time after the

1 examination is ordered and shall ~~transport~~ return the defendant ~~to the jail~~ within
2 a reasonable time after the examination is completed. The examining facility shall
3 notify the sheriff and county ~~the~~ department of community programs ~~of~~ for the
4 county ~~in which the court is located~~ receive notice from the examining facility that
5 when the examination ~~has been~~ is completed.

6 **SECTION 126.** 971.14 (2) (e) of the statutes is renumbered 975.32 (8) and
7 amended to read:

8 975.32 (8) The An examiner shall personally observe and examine the
9 defendant and shall have access to ~~his or her~~ the defendant's past ~~or~~ and present
10 treatment records, as defined under s. 51.30 (1) (b).

11 **SECTION 127.** 971.14 (2) (f) of the statutes is renumbered 975.32 (9).

12 **SECTION 128.** 971.14 (2) (g) of the statutes is renumbered 975.32 (11) and
13 amended to read:

14 975.32 (11) The defendant also may be examined for competency purposes at
15 any stage of the competency proceedings by ~~physicians or other experts~~ designated
16 by the court or chosen by the defendant or ~~by~~ the district attorney, who shall be
17 permitted reasonable access to the defendant for purposes of the examination. Any
18 party who intends to call an expert designated or chosen under this subsection as a
19 witness shall furnish a copy of the expert's report to the opposing party within a
20 reasonable period of time.

21 **SECTION 129.** 971.14 (3) (intro.) of the statutes is renumbered 975.33 (1) (intro.)
22 and amended to read:

23 975.33 (1) REPORT CONTENTS. (intro.) ~~The examiner shall submit to the court~~
24 ~~a written~~ A report which required under s. 975.32 (6) shall include all of the
25 following:

1 **SECTION 130.** 971.14 (3) (a) and (b) of the statutes are renumbered 975.33 (1)
2 (a) and (b).

3 **SECTION 131.** 971.14 (3) (c) of the statutes is renumbered 975.33 (1) (c) and
4 amended to read:

5 975.33 (1) (c) The examiner's opinion regarding the defendant's present mental
6 capacity to understand the criminal proceedings and assist in his or her defense.

7 **SECTION 132.** 971.14 (3) (d) of the statutes is renumbered 975.33 (1) (d) (intro.)
8 and amended to read:

9 975.33 (1) (d) (intro.) If the examiner reports that the defendant ~~lacks~~
10 ~~competency the, is not competent to proceed, all of the following:~~

11 1. The examiner's opinion regarding the likelihood that the defendant, if
12 provided treatment, may be restored to competency become competent within the
13 time maximum period permitted under sub. (5) (a). ~~The examiner shall provide an~~
14 ~~of commitment, as defined in s. 975.34 (6) (a). The examiner's opinion as to whether~~
15 ~~the individual's any such~~ treatment should occur be provided in an inpatient facility
16 designated by the department of health services, ~~or should be conducted, in a jail or~~
17 a locked unit of a facility that has entered into a voluntary agreement with the state
18 to serve as a location for treatment, or as a condition of ~~bail or bond~~ release under
19 s. 975.34 (6) (b) 2.

20 **SECTION 133.** 971.14 (3) (dm) (intro.) of the statutes is renumbered 975.33 (1)
21 (e) and amended to read:

22 975.33 (1) (e) If sufficient information is available to the examiner to reach an
23 opinion, the examiner's opinion on whether the defendant needs medication or
24 treatment and whether the defendant is not competent to refuse medication or
25 treatment. ~~The defendant is not competent to refuse medication or treatment if,~~

1 ~~because of mental illness, developmental disability, alcoholism or drug dependence,~~
2 ~~and after the advantages and disadvantages of and alternatives to accepting the~~
3 ~~particular medication or treatment have been explained to the defendant, one of the~~
4 ~~following is true:~~

5 **SECTION 134.** 971.14 (3) (dm) 1. and 2. of the statutes are repealed.

6 **SECTION 135.** 971.14 (3) (e) of the statutes is renumbered 975.33 (1) (g) and
7 amended to read:

8 975.33 (1) (g) The facts and reasoning, in reasonable detail, upon which the
9 required findings and opinions under pars. (b) to (dm) are based.

10 **SECTION 136.** 971.14 (4) (title) of the statutes is repealed.

11 **SECTION 137.** 971.14 (4) (a) of the statutes is renumbered 975.33 (2) and
12 amended to read:

13 975.33 (2) DISCLOSURE. The court shall cause copies of the examiner's report
14 to be delivered forthwith immediately to the district attorney and the defense
15 counsel, to the defendant's attorney or the defendant personally if not represented
16 by counsel. Upon the request of the sheriff or jailer charged with care and control
17 of the jail in which the defendant is being held pending or during a trial or sentencing
18 proceeding, the court shall cause a copy of the report to be delivered to the sheriff or
19 jailer. The sheriff or jailer may provide a copy of the report to the person who is
20 responsible for maintaining medical records for inmates of the jail, or to a nurse
21 licensed under ch. 441, or to a physician or physician assistant licensed under subch.
22 II of ch. 448 who is a health care provider for the defendant or who is responsible for
23 providing health care services to inmates of the jail. The report shall not be otherwise
24 disclosed ~~prior to~~ before the hearing under this subsection s. 975.34.

25 **SECTION 138.** 971.14 (4) (b) of the statutes is repealed.